

### **IC 2-5-3.2**

#### **Chapter 3.2. Review, Analysis, and Evaluation of Tax Incentives**

##### **IC 2-5-3.2-1**

##### **Review, analysis, and evaluation of tax incentives**

Sec. 1. (a) As used in this section, "tax incentive" means a benefit provided through a state or local tax that is intended to alter, reward, or subsidize a particular action or behavior by the tax incentive recipient, including a benefit intended to encourage economic development. The term includes the following:

(1) An exemption, deduction, credit, preferential rate, or other tax benefit that:

(A) reduces the amount of a tax that would otherwise be due to the state;

(B) results in a tax refund in excess of any tax due; or

(C) reduces the amount of property taxes that would otherwise be due to a political subdivision of the state.

(2) The dedication of revenue by a political subdivision to provide improvements or to retire bonds issued to pay for improvements in an economic or sports development area, a community revitalization area, an enterprise zone, or a tax increment financing district.

(b) The general assembly intends that each tax incentive effectuate the purposes for which it was enacted and that the cost of tax incentives should be included more readily in the biennial budgeting process. To provide the general assembly with the information it needs to make informed policy choices about the efficacy of each tax incentive, the commission on state tax and financing policy (or its successor committee) shall conduct a regular review, analysis, and evaluation of all tax incentives according to a schedule developed by the commission.

(c) The legislative services agency, under the direction of the commission, shall conduct a systematic and comprehensive review, analysis, and evaluation of each tax incentive scheduled for review by the commission. The review, analysis, and evaluation must include information about each tax incentive that is necessary to achieve the goals described in subsection (b), such as any of the following:

(1) The basic attributes and policy goals of the tax incentive, including the statutory and programmatic goals of the tax incentive, the economic parameters of the tax incentive, the original scope and purpose of the tax incentive, and how the scope or purpose has changed over time.

(2) The tax incentive's equity, simplicity, competitiveness, public purpose, adequacy, and extent of conformance with the original purposes of the legislation enacting the tax incentive.

(3) The types of activities on which the tax incentive is based and how effective the tax incentive has been in promoting these targeted activities and in assisting recipients of the tax

incentive.

(4) The count of the following:

- (A) Applicants for the tax incentive.
- (B) Applicants that qualify for the tax incentive.
- (C) Qualified applicants that, if applicable, are approved to receive the tax incentive.
- (D) Taxpayers that actually claim the tax incentive.
- (E) Taxpayers that actually receive the tax incentive.

(5) The dollar amount of the tax incentive benefits that has been actually claimed by all taxpayers over time, including the following:

(A) The dollar amount of the tax incentive, listed by the North American Industrial Classification System (NAICS) Code associated with the tax incentive recipients, if an NAICS Code is available.

(B) The dollar amount of income tax credits that can be carried forward for the next five (5) state fiscal years.

(6) An estimate of the economic impact of the tax incentive, including the following:

(A) A return on investment calculation for the tax incentive. For purposes of this clause, "return on investment calculation" means analyzing the cost to the state or political subdivision of providing the tax incentive, analyzing the benefits realized by the state or political subdivision from providing the tax incentive.

(B) A cost benefit comparison of the state and local revenue foregone and property taxes shifted to other taxpayers as a result of allowing the tax incentive, compared to tax revenue generated by the taxpayer receiving the incentive, including direct taxes applied to the taxpayer and taxes applied to the taxpayer's employees.

(C) An estimate of the number of jobs that were the direct result of the tax incentive.

(D) For any tax incentive that is reviewed or approved by the Indiana economic development corporation, a statement by the chief executive officer of the Indiana economic development corporation as to whether the statutory and programmatic goals of the tax incentive are being met, with obstacles to these goals identified, if possible.

(7) The methodology and assumptions used in carrying out the reviews, analyses, and evaluations required under this subsection.

(8) The estimated cost to the state to administer the tax incentive.

(9) An estimate of the extent to which benefits of the tax incentive remained in Indiana or flowed outside Indiana.

(10) Whether the effectiveness of the tax incentive could be determined more definitively if the general assembly were to clarify or modify the tax incentive's goals and intended purpose.

(11) Whether measuring the economic impact is significantly

limited due to data constraints and whether any changes in statute would facilitate data collection in a way that would allow for better review, analysis, or evaluation.

(12) Any additional review, analysis, or evaluation the commission considers advisable. Among other things, the commission and the legislative services agency are encouraged to include comparisons with tax incentives offered by other states if those comparisons would add value to the review, analysis, and evaluation.

The legislative services agency may request a state or local official or a state agency, a political subdivision, a body corporate and politic, or a county or municipal redevelopment commission to furnish information necessary to complete the tax incentive review, analysis, and evaluation required by this section. An official or entity presented with a request from the legislative services agency under this subsection shall cooperate with the legislative services agency in providing the requested information. An official or entity may require that the legislative services agency adhere to the provider's rules, if any, that concern the confidential nature of the information.

(d) The commission shall hold public hearings to receive information concerning tax incentives. On or before November 1, 2014, and each year thereafter, the commission shall submit a report to the legislative council, in an electronic format under IC 5-14-6, containing the results of the commission's review, analysis, and evaluation. The report must include at least the following:

(1) A detailed description of the review, analysis, and evaluation for each tax incentive reviewed.

(2) A recommendation as to whether a reviewed tax incentive should be continued, modified, or terminated, the basis for the recommendation, and the expected impact of the recommendation on the state's economy.

(3) Recommendations for better aligning a reviewed tax incentive with the original intent of the legislation that enacted the tax incentive.

(4) An estimate for each fiscal year of the next biennial budget of the cost of each tax incentive and the total cost of all tax incentives, including those not scheduled for review under this section. The estimates shall be provided to the chairperson and ranking minority member of the house committee on ways and means and the senate committee on appropriations for use in the preparation of the budget and to the general assembly to be used in the budget process.

(5) To the extent possible, an estimate of the indirect economic benefit or activity stimulated by the tax incentive.

The report required by this subsection must not disclose any proprietary or otherwise confidential taxpayer information.

(e) The general assembly shall use the commission's report to determine whether a particular tax incentive:

(1) is successful;

(2) is provided at a cost that can be accommodated by the state's

biennial budget; and

(3) should be continued, amended, or repealed.

(f) The legislative services agency shall establish and maintain a system for making available to the public information about the amount and effectiveness of tax incentives.

(g) The commission shall, before November 1, 2014, develop and publish on the general assembly's Internet web site a multi-year schedule that lists all tax incentives and indicates the year when the report will be published for each tax incentive reviewed. The commission may revise the schedule as long as the commission provides for a systematic review, analysis, and evaluation of all tax incentives and that each tax incentive is reviewed at least once every five (5) years.

(h) This section expires December 31, 2023.

*As added by P.L.114-2014, SEC.1.*